

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**J. Russell & Julie K. Hixson,**  
Petitioners-Appellants.

v.

**Warren County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-91-0260**  
**Parcel No. 63-100-00-0170**

On February 14, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants J. Russell and Julie K. Hixson requested their appeal be considered without hearing. They were self-represented. County Attorney John Criswell is counsel for the Board of Review. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

J. Russell and Julie K. Hixson, owners of property located at 1108 Maple Avenue, Norwalk, Iowa, appeal from the Warren County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, frame dwelling having 1040 total square feet of living area, a full unfinished basement, and a 48 square-foot open porch. It also has some brick veneer. The dwelling was built in 1950, is listed in above-normal condition, and has an average (4+00) quality grade. The parcel is also improved by a 480 square-foot detached garage, which was built in 1994. The dwelling is situated on a 0.232 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$119,500, representing \$16,400 in land value and \$103,100 in improvement value.

Hixsons protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). They claimed that \$90,500 was the actual value and a fair assessment of the property. The Board of Review denied the protest.

Hixsons then filed their appeal with this Board on the same ground and claimed the same relief.

Hixsons purchased the property May 27, 2011, in a foreclosure sale from a lender for \$90,021. They did not submit an appraisal from the purchase, and it is unlikely one was completed as it appears it was a cash transaction. We note the property's listing indicates the asking price was \$60,000 below the previous owner's purchase price in 2006 and is sold "as is." Prior to purchase, Hixsons arranged for a home inspection to be completed by Kevin Nelson of Pillar to Post Home Inspection, Urbandale. Nelson's report lists numerous deficiencies including unsecured, non-standard and exposed wiring; water damage and floor cracks in the basement; damaged flooring and drywall; and water leaks. The home inspection included photographs documenting these deficiencies. We note the subject property's record card lists it in above-average condition, but these deficiencies would not typically be found in an above-normal home.

The Board of Review submitted five sale comparables to support the subject property's assessment. The properties are all one-story, frame dwellings ranging from 768 square feet to 1064 square feet of total living area and were built between 1950 and 1960. The properties have average quality grades (4-5 to 4+5). Two of the comparables are in normal condition and three are in above-normal condition. The sales occurred between October 2009 and March 2011 and prices ranged from \$92,000 to \$145,000, with a median of \$107,120, or \$102.51 to \$136.57 per square foot with a median of \$119.79 per square foot. The 2009 and 2011 sales are probably not appropriate for the assessment sales ratio. The three properties that sold in 2010 have higher sale prices than assessments and a median assessment/sales ratio of 0.91 which indicates underassessment. While the sales data appears to support the assessment, the subject property was compared to normal and above-normal properties.

when it was clearly in inferior condition at the time of purchase. Further, we can reasonably assume this condition existed as of January 1, 2011.

According to the *Iowa Real Property Appraisal Manual*, a 61-year-old house in above-normal condition has physical depreciation of 21%, whereas the same age house in below normal condition has physical depreciation of 31%. We find the Hixsons' property condition should be changed to below normal and the physical depreciation of the dwelling be increased by 10% to reflect this change.

Reviewing all the evidence, we find the preponderance of the evidence supports Hixsons' claim that their property was assessed for more than authorized by law as of January 1, 2011. The sales price of the subject property is given limited consideration, due to the fact that it was a foreclosure sale. However, because the property's assessment was based on 21% physical depreciation of an above-normal dwelling, it results in an over-assessment. We find the condition of the dwelling, as evidenced by the home inspection, warrants an additional 10% physical depreciation to account for its below normal condition as of the assessment date and until the condition of the dwelling is improved.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

*Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

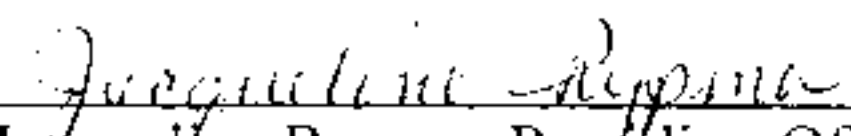
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). It is clear from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value but does not conclusively establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). However, a sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. § 441.21(1)(b). Since we are not assured Hixsons' purchase of the foreclosure sale property reflects consideration for its distorting factors, we cannot rely on the purchase price as the sole indicator of market value. However, we believe it supports their claim of over-assessment. The best evidence indicates the property was not in above-normal condition at the time of purchase, and we believe this to be reasonably true as of the assessment date as well. As such, the physical depreciation of the dwelling should be increased by 10% because of the documented deficiencies in the property at the time of purchase.

Viewing the evidence as a whole, we determine the preponderance of the evidence supports Hixsons' claim of over-assessment as of January 1, 2011. Therefore, we modify the Hixsons' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$109,190, representing \$16,400 in land value and \$92,790 in dwelling value, and the improvement condition is below normal.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Warren County Board of Review is modified to \$109,190, representing \$16,400 in land value and \$92,790 in dwelling value, and the condition of the property is below normal.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 19 day of March 2012.

  
Jacqueline Rypma, Presiding Officer

  
Richard Stradley, Board Chair

  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-19</u> , 20 <u>12</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>